IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3239 OF 1997

The Head Master .
Vidyavihar Marathi Prathamik Shala, .
Ambarnath & Ors. ....Petitioners

V/s.

The Administrative Officer, .
Municipal School Board, & Ors. ....Respondents

None for the Petitioners.

Mrs.S.S. Gokhale for Respondent No.1.

Ms.P.S. Cardozo, A.G.P. for Respondent Nos.2 and 3.

CORAM : R.M. LODHA, &
S.J. VAZIFDAR, JJ.
DATED : 14TH JULY, 2006.

P.C. :

None appears for the petitioners. The petitioner nos.3 and 4 claim to be working as Assistant Teachers in Vidyavihar Marathi Prathamik Shala run by the petitioner no.2. The petitioner no.1 is the Head Master of the said school. The teachers as well as the management have joined their hands and by means of this petition pray that the respondents be directed to disburse the salary grants to the petitioner nos.1 and 2 and pay the salaries of the petitioner nos.3 and 4 with effect from the academic

year 1995-1996. It is the case of the petitioners that the petitioner nos.3 and 4 were appointed in view of the additional divisions effective from the academic year 1995-1996.

2. The respondent no.1 has filed the reply affidavit. It is the case of the respondent no.1 that at the time of appointment of the petitioner nos.3 and 4, it was made clear to the petitioner nos.1 and 2 that the divisions on which the petitioner nos.3 and 4 were teaching, were non-aided divisions and that they shall have to accept the pay scale as may be paid by the petitioner nos.1 and 2. The respondent no.1 has, thus, denied its responsibility in making payment of salary to the petitioner nos.3 and 4. Besides that, the respondent no.1 has set up the plea that the appointment of the petitioner nos.3 and 4 is not as per the rules and that in the academic year 1995-1996, no approval was taken by the petitioner nos.1 and 2. Additionally it is stated by the respondent no.1 that for the academic years 1995-1996 and 1996-1997, the Deputy Director of Education, Nashik Region has sanctioned Rs.98,025/- per year to the petitioner no.2 school. The Respondent No.1 has stated that the approval has been given on temporary basis for one year to the petitioner no.3 for the year 1997-1998.

In so far as petitioner no.4 is concerned, she was appointed on temporary basis only for the year 1995-1996. In sum and substance, the defence of the respondent no.1 is that the petitioners are entitled to grants in the sum of Rs.98,025/- per year for the years 1995-1996 and 1996-1997 and that grants includes the salary of all approved teachers.

3. The careful scan of the writ petition indicates that the petitioner nos.1 and 2 have joined hands with the petitioner nos.3 and 4 in claiming salary of the petitioner nos.3 and 4 for the years 1995-1996 and 1996-1997 though they were not approved teachers. If for additional divisions, the petitioner nos.1 and 2 appointed the petitioner nos.3 and 4 without obtaining approval as per grants-in-aid rules, the liability to pay salary to petitioner nos.3 and 4 is of the petitioner nos.1 and 2. In so far as the State Government is concerned, the grant of Rs.98,025/- per year for the year 1995-1996 and 1996-1997 has been sanctioned and the respondent no.1 is only liable to disburse that amount to the petitioner nos.1 and 2.

4. All in all, we find that the present petition has been contrived by the petitioner nos.1 and 2 to

escape their liability of payment of salary to the petitioner nos.3 and 4. The writ petition is wholly misconceived and dishonest. We, accordingly, discharge the rule. Since no one appears for the petitioners, we direct the parties to bear their own costs.

(R.M. LODHA, J.)

(S.J. VAZIFDAR, J.)